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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,885

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Takayuki Kimoto

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53044

7590

10/27/2008

SNELL & WILMER L.L.P. (Panasonic)

600 ANTON BOULEVARD

SUITE 1400

COSTA MESA, CA 92626

EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

10/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/561,885

**Applicant(s)**

KIMOTO ET AL.

**Examiner**

Jeff Piziali

**Art Unit**

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-11 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to more than one species (and sub-species) of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

**Species 1**, drawn to *determining a boundary position for dividing the screen vertically into a first area and a second area* (e.g., see independent claims 1 and 11, line 4; Fig. 3A; Page 18, Line 6 - Page 19, Line 23); and

**Species 2**, drawn to *determining a boundary position for dividing the screen horizontally into a first area and a second area* (e.g., see independent claims 1 and 11, line 4; Fig. 3B; Page 18, Line 6 - Page 19, Line 23).

Each of the above species include sub-species as follows:

**Sub-Species A**, drawn to *displaying in the second area the second partial image expressed by the second subset of image signals* (e.g., see independent claims 1 and 11, lines 20-21); and

**Sub-Species B**, drawn to *displaying in the second area a converted second partial image expressed by a converted second subset of image signals generated by converting a color attribute of the second subset of image signals* (e.g., see independent claims 1 and 11, lines 20-23).

Applicant is required, in reply to this action, to elect a single species (and sub-species) to which the claims shall be restricted if no generic claim is finally held to be allowable.

The reply must also identify the claims readable on the elected species (and sub-species), including any claims subsequently added.

An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species (and sub-species) which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species (and sub-species). MPEP § 809.02(a).

2. The claims are deemed to correspond to the species (and sub-species) listed above in the following manner:

All the pending claims appear to be generic to the identified species and sub-species.

The following claims appear to be generic: Claims 1-11.

3. The species (and sub-species) listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species (and sub-species) lack the same or corresponding special technical features for the following reasons:

Any international application must relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (see MPEP 1850).

As demonstrated by the “X” and “Y” references on the International Search Report, at least one independent claim of the application does not avoid the prior art, therefore, the special technical feature of the application is anticipated by or obvious in view of the prior art.

Consequently, the inventions listed as Species 1-2, Sub-Species A-B do not relate to a single general inventive concept under PCT Rule 13.1.

Moreover, the species (and sub-species) are independent or distinct because claims to the different species (and sub-species) recite the mutually exclusive characteristics of such species (and sub-species). In addition, these species (and sub-species) are not obvious variants of each other based on the current record.

There is an examination and search burden for these patentably distinct species (and sub-species) due to their mutually exclusive characteristics. The species (and sub-species) require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species (and sub-species) would not likely be applicable to another species (and sub-species); and/or the species (and sub-species) are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

4. Restriction to one of the following inventions is additionally required under 35 U.S.C. 121:

***Invention I.*** Claims 1-10, drawn to an image display device, classified in class 345, subclass 204 (e.g., display control products).

***Invention II.*** Claim 11, drawn to an image display method, classified in class 345, subclass 418 (e.g., methods for performing computer graphics processing).

The inventions are distinct, each from the other because of the following reasons:

5. Inventions I and II are related as product and process of use.

The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h).

(1) In the instant case, the process for using the product as claimed (*the method of claim 11*) can be practiced with another materially different product (*than the image display device of claims 1-10*).

For example, the process as claimed (*the method of claim 11*) can be practiced with another materially different product (*than the image display device of claims 1-10*) not including at least:

*"a determining unit"* as claimed in independent claim 1 (*line 3*);

*"a first display unit"* as claimed in independent claim 1 (*line 5*); and

*"a second display unit"* as claimed in independent claim 1 (*line 14*).

6. The inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the inventions lack the same or corresponding special technical features for the following reasons:

Any international application must relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (see MPEP 1850).

As demonstrated by the "X" and "Y" references on the International Search Report, at least one independent claim of the application does not avoid the prior art, therefore, the special technical feature of the application is anticipated by or obvious in view of the prior art.

Consequently, the inventions listed as Inventions I and II do not relate to a single general inventive concept under PCT Rule 13.1.

7. Restriction for examination purposes as indicated is also proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of an invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the



inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species (and sub-species) and invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species (and sub-species) may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

9. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined

claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoiner in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoiner.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Piziali whose telephone number is (571) 272-7678. The examiner can normally be reached on Monday - Friday (6:30AM - 3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chanh Nguyen can be reached on (571) 272-7772. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff Piziali/  
Primary Examiner, Art Unit 2629  
16 October 2008